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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,410	02/13/2001	Urbain Alfred von der Embse		1502

7590 01/11/2006

Urbain Alfred von der Embse  
7323 W. 85TH ST.  
WESTCHESTER, CA 90045-2444

EXAMINER

PERILLA, JASON M

ART UNIT	PAPER NUMBER
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2638

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/846,410

Applicant(s)

VON DER EMBSE, URBAIN  
ALFRED

Examiner

Jason M. Perilla

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 5 and 6 are pending in the instant application.

#### ***Claim Objections***

2. Claims 5 and 6 are objected to because of the following informalities:

Regarding claim 5, in line 3, the acronym "CDMA" should be defined in the claim, and, in lines 6 and 7, the parenthesis should be removed because it is unclear if the term(s) within them further limit the claim.

Regarding claim 6, the claims are objected to for the same reasons as applied to claim 5 above.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5 and 6 are rejected as failing to define the invention in the manner required by 35 U.S.C. § 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The **structure** which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to *present a complete operative device*. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

5. Claims 5 and 6 are rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such

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omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the structural interconnections between the various claimed means.

6. Claims 5 and 6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the claim is indefinite because many of its limitations are lacking antecedent basis. The following terms are lacking antecedent basis:

In line 8, "the Walsh code"

In lines 9-12, "the sequency~frequency, even~cosine, and odd~sine correspondences" and "the DFT codes"

In lines 20-21, "the plurality of other codes"

In line 26, "the code input data vector"

Regarding claim 6, the claim is indefinite because many of its limitations are lacking antecedent basis. The following terms are lacking antecedent basis:

In line 8, "the real Walsh codes"

In lines 13-14, "the plurality of other codes"

In line 19, "the code input data symbol vector"

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art of record not relied upon above is cited to show the state of art with respect to orthogonal code generation.

U.S. Pat. No. 6317413 to Honkasalo.

U.S. Pat. No. 6674712 to Yang et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Perilla whose telephone number is (571) 272-3055. The examiner can normally be reached on M-F 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**KENNETH VANDERPUYE**  
**SUPERVISORY PATENT EXAMINER**

jmp

Jason M. Perilla  
January 3, 2006